

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

Filed: January 13, 2023

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ROBERT GALANTE,	*	UNPUBLISHED
	*	
Petitioner,	*	No. 18-1933V
	*	
v.	*	Special Master Gowen
	*	
SECRETARY OF HEALTH	*	Decision on Damages; Proffer;
AND HUMAN SERVICES,	*	Intradermal Influenza (“flu”);
	*	Shoulder Pain and
Respondent.	*	Dysfunction.
* * * * *	*	

*Bridget Candace McCullough*, Muller Brazil, LLP, Dresher, PA, for petitioner.

*Ryan Daniel Pyles*, U.S. Department of Justice, Washington, DC, for respondent.

### **DECISION ON DAMAGES<sup>1</sup>**

On December 18, 2018, Robert Galante (“petitioner”) filed a petition for compensation under the National Vaccine Injury Compensation Program.<sup>2</sup> Petitioner alleges that as a result of receiving an intradermal influenza (“flu”) vaccine on September 7, 2016, in his left arm he suffered a shoulder injury related to vaccine administration (“SIRVA”) that was caused in fact by the flu vaccination. Petition (ECF No. 1). On November 9, 2022, the undersigned issued a Ruling on Entitlement, finding that petitioner is entitled to compensation. Ruling on Entitlement (ECF No. 70).

On January 12, 2023, respondent filed a Proffer of Award of Compensation, which indicates petitioner’s agreement to compensation on the terms set forth therein. Proffer (ECF No. 75). The proffer is attached hereto as Appendix A and is incorporated into this decision as though set forth in full.

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<sup>1</sup> Pursuant to the E-Government Act of 2002, *see* 44 U.S.C. § 3501 note (2012), because this opinion contains a reasoned explanation for the action in this case, I intend to post it on the website of the United States Court of Federal Claims. The court’s website is at <http://www.uscfc.uscourts.gov/aggregator/sources/7>. Before the opinion is posted on the court’s website, each party has 14 days to file a motion requesting redaction “of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy.” Vaccine Rule 18(b). An objecting party must provide the court with a proposed redacted version of the opinion. *Id.* If neither party files a motion for redaction within 14 days, the opinion will be posted on the court’s website without any changes. *Id.*

<sup>2</sup> The National Vaccine Injury Compensation Program is set forth in Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C. §§ 300aa-10 to 34 (2012) (hereinafter “Vaccine Act” or “the Act”). Hereinafter, individual section references will be to 42 U.S.C. § 300aa of the Act.

**Consistent with the terms stated in the attached Proffer, I hereby award the following in compensation for all damages that would be available under 42 U.S.C. § 300aa-15(a):**

- 1) A lump sum payment of \$55,000.00, representing compensation for pain and suffering, in the form of a check payable to petitioner, Robert Galante.**

The Clerk of the Court is directed to **ENTER JUDGMENT** in accordance with this decision.<sup>3</sup>

**IT IS SO ORDERED.**

**s/Thomas L. Gowen**  
Thomas L. Gowen  
Special Master

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<sup>3</sup> Entry of judgment is expedited by each party's filing notice renouncing the right to seek review. Vaccine Rule 11(a).

**THE UNITED STATES COURT OF FEDERAL CLAIMS  
OFFICE OF SPECIAL MASTERS**

ROBERT GALANTE,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

No. 18-1933V

Special Master Thomas L. Gowen  
ECF

**RESPONDENT’S PROFFER ON AWARD OF COMPENSATION**

On December 18, 2018, Robert Galante (“petitioner”) filed a petition for compensation under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 to -34 (“Vaccine Act” or “Act”), alleging that he suffered “left shoulder injuries related to vaccine administration.” *See* Petition at 1. In a November 9, 2022 Ruling on Entitlement, the Special Master found petitioner entitled to compensation.<sup>1</sup>

Respondent now proffers that petitioner be awarded a lump sum payment of **\$55,000.00**, in the form of a check payable to petitioner, representing all elements of compensation to which petitioner is entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees. Petitioner is a competent adult. Evidence of guardianship is not required in this case.<sup>2</sup>

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<sup>1</sup> Respondent has no objection to the amount of the proffered award of damages set forth herein. Assuming the Special Master issues a damages decision in conformity with this proffer, respondent waives his right to seek review of such damages decision. However, respondent reserves his right, pursuant to 42 U.S.C. § 300aa-12(e), to seek review of the Special Master’s November 9, 2022 Ruling on Entitlement.

<sup>2</sup> Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future damages.

Respectfully submitted,

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DATED: January 12, 2023